

MINUTES**DAKOTA COUNTY PHYSICAL DEVELOPMENT COMMITTEE OF THE WHOLE****April 14, 2009****Conference Room L139, 14955 Galaxie Avenue, Apple Valley, Minnesota****1. CALL TO ORDER AND ROLL CALL**

Commissioner Paul J. Krause, Chair of the Physical Development Committee of the Whole, called the meeting to order at 10:00 a.m. Commissioners in attendance:

Commissioner Joseph A. Harris, District 1
Commissioner Kathleen Gaylord, District 2
Commissioner Thomas Egan, District 3
Commissioner Nancy Schouweiler, District 4
Commissioner Liz Workman, District 5
Commissioner Paul J. Krause, District 6
Commissioner Willis E. Branning, District 7

Also in attendance were:

Brandt Richardson, County Administrator
Lynn Thompson, Division Director
Jay Stassen, Assistant County Attorney
Jeanne Nash Hoffmann, Administrator Coordinator

2. INTRODUCTION OF NEW STAFF

There were no new staff to introduce this month.

3. AUDIENCE

Chair Krause asked if anyone in the audience wished to address the Committee on an item not on the agenda or if anyone wished to discuss an item on the Consent Agenda. No one came forward.

4. APPROVAL OF THE AGENDA

Motion by Commissioner Harris, Second by Commissioner Schouweiler, and passed on a 7-0 vote to approve the agenda for April 14, 2009, as presented.

5. CONSENT/INFORMATION AGENDA

Motion by Commissioner Egan, Second by Commissioner Workman, and passed on a 7-0 vote to approve the consent agenda. A change was made to Item 5.3 to add an effective date of January 1, 2009 to the resolve in the resolution. The item on page 2 of these minutes includes that addition.

5.1 – Minutes Of The March 24, 2009 Meeting**5.2 – Authorization To Submit Proposals To Legislative-Citizen Commission On Minnesota Resources**

WHEREAS, the Legislative-Citizen Commission on Minnesota Resources (LCCMR) has issued a request for proposals for projects to be funded in the state Fiscal Year 2011; and

WHEREAS, staff has identified two project proposals that are consistent with the funding priorities of the LCCMR; and

WHEREAS, these projects include (1) Minnesota River Valley Greenway Implementation Project, and (2) Environmental Study of Lake Byllesby; and

WHEREAS, the two project proposal requests total \$1,300,000; and

WHEREAS, a potential third project may be submitted to LCCMR by the Metro Conservation Corridors (MeCC) consortium, of which Dakota County is a partner; and

WHEREAS, this MeCC project has not been finalized at this time, but would potentially include a funding request for the protection and restoration of natural areas within Dakota County; and

WHEREAS, these natural areas would be identified from the list of either already-approved FNAP project locations or drawn from projects submitted during the FNAP 2009 application round; and

WHEREAS, the proposed projects, if funded and successfully completed, will benefit the citizens and the environment and natural resources of Dakota County; and

WHEREAS, all initial project proposals must be submitted to the LCCMR by May 1, 2009.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby authorizes the Physical Development Director to develop, sign, submit, and pursue the acceptance of proposals to the Legislative-Citizen Commission on Minnesota Resources for the above named projects, including a potential project submission from the Metro Conservation Corridors consortium; and

BE IT FURTHER RESOLVED, That the Physical Development Director shall report back to the Physical Development Committee of the Whole on the progress in securing funds for Dakota County projects through the Legislative-Citizen Commission on Minnesota Resources.

5.3 – Authorization To Execute Amendment To Host Fee Agreement With SKB Environmental, Inc. For SKB Industrial Waste Landfill In Rosemount

WHEREAS, SKB Environmental, Inc. (SKB) is the owner and operator of the SKB Industrial Waste Landfill located in Rosemount; and

WHEREAS, Dakota County and SKB have executed prior host fee agreements concerning the SKB Industrial Waste Landfill whereby SKB agreed to pay host fees to the County as the host community for certain wastes; and

WHEREAS, SKB and Dakota County executed a new host fee agreement with a term from January 1, 2009 through December 31, 2012; and

WHEREAS, language included in the previous host fee agreement between the County and SKB exempted SKB from paying host fees on industrial wastes which had been processed at an 85% level, as defined by Minn. Stat. §115A.919; and

WHEREAS, the language referencing Minn. Stat. §115A.919 was removed from the current host fee agreement between the County and SKB, without either party realizing the implications of such removal, at the time this agreement was executed; and

WHEREAS, Section 7.10 of the current host fee agreement between Dakota County and SKB requires any amendments to the agreement to be in writing and signed by both parties.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby authorizes the County Board Chair to execute an amendment of the current host fee agreement between Dakota County and SKB Environmental, Inc. to include language that will exempt SKB from host fee payments on industrial wastes processed in accordance with the requirements of Minn. Stat. §115A.919, effective January 1, 2009.

5.4 – Authorization To Execute Agreement Amendment With State Of Minnesota For Vermillion River Corridor Acquisition And Restoration Project

WHEREAS, in September 2007, Dakota County submitted a preliminary project proposal to the Legislative-Citizen Commission on Minnesota Resources (LCCMR) for the Vermillion River Corridor Acquisition and Restoration Project; and

WHEREAS, the purpose of the Vermillion River Corridor Acquisition and Restoration Project is to develop and begin implementing a comprehensive and integrated water quality, wildlife habitat, and outdoor recreational corridor plan in the Vermillion River watershed through easement and fee title acquisition and restoration; and

WHEREAS, the Minnesota Legislature, through Minnesota Law 2008, Chapter 367, Sec. 2, Subd. 3(b) appropriated up to \$400,000 (\$40,000 for the project plan and \$360,000 for acquisition and restoration) from the Minnesota Environmental and Natural Resources Trust Fund to the Commissioner of Natural Resources for an agreement with Dakota County for the Vermillion River Corridor Acquisition and Restoration Project; and

WHEREAS, Dakota County is committed to implementing the Vermillion River Corridor Acquisition and Restoration project as described in the work program that was submitted to and approved by the LCCMR; and

WHEREAS, the LCCMR required Dakota County to enter into a contract agreement with the Minnesota Department of Natural Resources (DNR) that identified the terms and conditions of the appropriation; and

WHEREAS, by Resolution No 08-382 (August 14, 2008), the Dakota County Board of Commissioners authorized the Acting Physical Development Division Director to execute an agreement with the DNR for the Vermillion River Corridor Acquisition and Restoration project as specified in the approved work program and to comply with all of the terms, conditions, and matching provisions of the associated contract agreement for a period from July 1, 2008, through June 30, 2011, subject to approval by the County Attorney's Office as to form; and

WHEREAS, Minnesota Law 2008, Chapter 367, Sec. 2, Subd. 3(b) also stated "On January 2, 2009, the unobligated balance of the appropriation for Dakota County wildlife habitat acquisition and development in Laws 1999, chapter 231, section 16, subdivision 13, paragraph (m) is transferred and added to this appropriation" ; and

WHEREAS, the unobligated balance in the 1999 Dakota County habitat appropriation was \$149,965 as of January 2, 2009; and

WHEREAS, an amendment to the Vermillion River Corridor Acquisition and Restoration project agreement with DNR is required to transfer \$149,965 of additional project implementation funding to Dakota County; and

WHEREAS, eligible project expenses will be paid initially by the County and reimbursed by the State of Minnesota according to the terms of the aforementioned amended agreement; and

WHEREAS, the 2009 Parks and Open Space Department budget will include the expenditure and reimbursement of County funds for planning and implementing the Vermillion River Corridor Acquisition and Restoration project.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby authorizes the Physical Development Director to execute Amendment No. 1 to Grant Number B18074, as presented to the Dakota County Physical Development Committee of the Whole on April 14, 2009, with the DNR for providing an additional \$149,965 to Dakota County for implementing the Vermillion River Corridor Acquisition and Restoration project as specified in the approved, amended work program, subject to approval by the County Attorney's Office as to form; and

BE IT FURTHER RESOLVED, That the 2009 Parks and Open Space budget is hereby amended as follows:

Expense	
Vermillion Corridor Acquisition and Restoration	\$149,965
Total Expense	149,965

Revenue

Transfer of 1999 state appropriation funds to the Vermillion River Corridor Acquisition and Restoration Project	149,965
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Total Revenue	149,965
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5.5 – Authorization To Execute Joint Powers Agreement With City Of Mendota Heights For Feasibility Study Of Highway 110/149 Intersection

WHEREAS, Dakota County has planned and developed the North Urban Regional Trail (NURT) in the Cities of Lilydale, Mendota Heights, West St. Paul, and South St. Paul to provide safe and enjoyable, non-motorized outdoor recreation and transportation; and

WHEREAS, the adopted park system plan includes a system of multi-purpose greenway corridors throughout the County; and

WHEREAS, one of the identified greenway corridors would connect Lebanon Hills Regional Park (LHRP) with the NURT in the City of Mendota Heights near the Highway 110 / 149 intersection; and

WHEREAS, the Highway 110 / 149 intersection does not currently facilitate a safe and enjoyable use of the NURT or a possible connection with a planned greenway corridor connecting the trail with LHRP; and

WHEREAS, the City of Mendota Heights is interested in exploring design options for improved pedestrian and bicyclist movement through the Highway 110 / 149 intersection; and

WHEREAS, the estimated cost of the Highway 110 / 149 intersection feasibility study is \$21,500; and

WHEREAS, the City of Mendota Heights is interested in entering into a Joint Powers Agreement with Dakota County to explore design options and estimated costs that would best meet County and City needs; and

WHEREAS, the City requests the County pay \$6,000 towards the costs of the Feasibility Study to explore design options, with the City covering all other costs associated with the study.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby authorizes the Physical Development Director to execute a Joint Powers Agreement with the City of Mendota Heights, in substantially the same terms as the Joint Powers Agreement presented to the Physical Development Committee of the Whole on April 14, 2009, to expend up to \$6,000 to complete a Feasibility Study for pedestrian and bicyclist crossing improvements at the Highway 110 / 149 intersection, which includes design interests of the County related to the NURT and greenway connection to LHRP, subject to approval by the County Attorney's Office as to form.

5.6 – Ratification Of Application And Authorization To Execute Agreement For Potential Federal Recreation Transportation Grant At Lebanon Hills Regional Park

WHEREAS, a 2009 County Board Goal is to increase non-county transportation and parks and open space funding; and

WHEREAS, the Federal Recreation Transportation grant program administered by the Minnesota DNR is seeking applications to award \$3,000,000 for trail related projects within Minnesota; and

WHEREAS, applications were due on February 27, 2009, with grants awarded in June 2009 for projects to be completed by June 2011; and

WHEREAS, the DNR requires a resolution from the County Board approving potential acceptance of the grant; and

WHEREAS, the grantee must commit that the project will be open and available for use, as well as maintained for no less than 20 years; and

WHEREAS, the grantee must provide a resolution from the local unit of government accepting the grant (if awarded) and committing to the 20 year maintenance requirement; and

WHEREAS, a grant application was submitted by Dakota County to meet the February 27, 2009 deadline; and

WHEREAS, the grant will fund the improvement of 1.0 mile of additional beginner mountain bike trail and a skills park at the Lebanon Hills Regional Park mountain bike facility; and

WHEREAS, the County Attorney advises that the 20-year maintenance obligation effectively requires that the County Board approve the grant application; and

WHEREAS, annual maintenance for the improvement is estimated at 50 staff hours/year plus \$100 in materials, which can be absorbed in the current operations budget; and

WHEREAS, the project cost is \$49,500 with a grant cash request of \$24,750 and a local match of \$24,750; and

WHEREAS, sufficient local match funds of \$17,250 are available in the 2009 Parks and Open Space CIP and Operation budgets and the remaining match of \$7,500 will be provided by in-kind services provided by the Minnesota Off Road Cyclists (MORC) under a contract with the County.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby ratifies the application of the Federal Recreation Transportation grant; and

BE IT FURTHER RESOLVED, That the Dakota County Board of Commissioners hereby authorizes the Physical Development Director to execute the grant agreement if offered to Dakota County, subject to approval by the County Attorney's Office as to form; and

BE IT FURTHER RESOLVED, That the Dakota County Board of Commissioners hereby commits to maintaining the grant improvements for a period of 20 years.

5.7 – Authorization To Submit Application For Department Of Natural Resources Dam Safety Grant

WHEREAS, Dakota and Goodhue Counties are responsible for the operation and maintenance of the Byllesby Dam and Dakota County serves as the administrator and fiscal manager for Byllesby Dam revenues and expenditures; and

WHEREAS, Byllesby Dam is jointly owned by Dakota County (60%) and Goodhue County (40%), and Dakota County invoices Goodhue County 40% of the maintenance and operation costs incurred; and

WHEREAS, the Federal Energy Regulatory Commission (FERC) regulates the Byllesby Dam and requires dam owners to investigate design, condition and public safety issues at the dam; and

WHEREAS, FERC has stated that while the dam itself is safe, it has concerns that the dam cannot adequately pass the Probable Maximum Flood (PMF) without causing physical damage, and physical upgrades to the dam are required; and

WHEREAS, since physical upgrades to the dam will be expensive, staff asked FERC to allow the Counties to reevaluate the PMF; and

WHEREAS, FERC has agreed to allow the Counties to reevaluate the Probable Maximum Precipitation (PMP) model and corresponding PMF, before requiring specific physical upgrades; and

WHEREAS, County Board Resolutions No. 08-427 and 08-662 authorized the execution of contracts to conduct Probable Maximum Precipitation (PMP) and Probable Maximum Flood (PMF) models; and

WHEREAS, the Minnesota Department of Natural Resources (MDNR) has a Dam Safety Grant program designed to assist local units of government in the repair, reconstruction, and removal of dams; and

WHEREAS, the MDNR Dam Safety Grant application is due to the MDNR in June 2009 and the MDNR forwards grant requests to the state legislature for possible state bonding appropriations; and

WHEREAS, the Goodhue County Board of Commissioners will also be taking action on this grant application at its April 2009 meeting; and

WHEREAS, if Dakota County is offered a Dam Safety Grant, it may enter into an agreement with the MDNR to upgrade the Byllesby Dam subject to the conditions and terms of the grant; and

WHEREAS, the MDNR Dam Safety Program has specific grant agreement resolution language required as part of the application process as incorporated below.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners, hereinafter referred to as the "Applicant", hereby authorizes the Physical Development Division Director to submit a Dam Safety Grant application to the Minnesota Department of Natural Resources for grant dollars to off-set the costs associated with physical upgrades to Byllesby Dam and act as legal sponsor for the project described in the Department of Natural Resources Dam Safety Program grant application, contingent upon the Goodhue County Board of Commissioners resolution authorizing the same; and

BE IT FURTHER RESOLVED, That the Applicant has the legal authority to apply for financial assistance and the institutional, managerial and financial capability to carry out the project; and

BE IT FURTHER RESOLVED, That upon approval of its application by the State, the Applicant may enter into an agreement with the State for the above-referenced project, and by further resolutions of the Dakota and Goodhue County Boards of Commissioners, Lynn Thompson, Physical Development Director, may be authorized to execute the Dam Safety Program grant agreement, subject to approval by the Dakota County Attorney's Office as to form, and act as the Applicant's authorized agent for the purpose of administration of the grant and certification to comply with all applicable laws and regulations as stated in the grant agreement.

5.8 – Authorization To Execute Joint Powers Agreement With Vermillion River Watershed Joint Powers Organization For Groundwater Monitoring, Studies, And Public Outreach

WHEREAS, the Dakota County Water Resources Department is currently conducting studies and coordinating public outreach and communication programs that have direct benefits to the Vermillion River Watershed; and

WHEREAS, on March 26, 2009, the Vermillion River Watershed Joint Powers Board (VRWJPB) approved a resolution to enter into a Joint Powers Agreement with Dakota County to provide funding assistance for groundwater monitoring, studies, and public outreach programs currently underway in the County; and

WHEREAS, the Dakota County Water Resources Department is working on programs that are consistent with the approved 2009 VRWJPO Budget and that help fulfill the goals and objectives of the Vermillion River Watershed Plan; and

WHEREAS, this Joint Powers Agreement between the County and the VRWJPO would result in increased government efficiency and would avoid duplication between these entities.

NOW, THEREFORE, BE IT RESOLVED, That the Dakota County Board of Commissioners hereby authorizes the County Board Chair to execute a joint powers agreement with the Vermillion River Watershed Joint Powers Board through which the Vermillion River Watershed Joint Powers Organization will provide funding assistance in the amount of \$63,400 for the following studies and programs, subject to approval by the County Attorney's Office as to form; and

BE IT FURTHER RESOLVED, That the 2009 Water Resources Department Budget is hereby amended as follows:

Expense

Hydrogeology and Groundwater/ Surface Water Interaction Study	\$22,000
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Hastings Area Nitrate Study, Phase III	10,400
Ambient Groundwater Quality Study	21,000
South Branch Groundwater Study	7,000
Wetland Health Evaluation Program	3,000
Total	63,400

Revenue

Vermillion River Watershed Joint Powers Organization	63,400
Total	63,400

5.9 – Plat Commission Update – Information only; no action was requested.

6. REGULAR AGENDA

6.1 – Update On Capx2020 Transmission Line Project

Office of Planning and Analysis Senior Planner John Mertens introduced Tim Carlsgaard from Capx2020, Tom Hillstrom, from Xcel Energy, and Dan Lescher, from Great River Energy. They explained that Capx2020 is a joint initiative of 11 transmission-owning utilities. A presentation was given that highlighted Capx2020 transmission capacity expansion plans by 2020 that will alleviate emerging electrical reliability concerns around the state, will be a critical foundation for future transmission and generation, that will provide needed transmission capacity to support new generation outlet, that will cost \$1.4 - \$1.7 billion in 2007, and will be in service between 2012 and 2015. They showed the northern route that goes through Eureka, Castle Rock and Vermillion Townships and connects to the substation north of Hampton. They also showed the southern route which travels the south edge of Eureka Township along CR 86 then continues easterly along CR 88 to CR 47, connecting to TH 56/52 and traveling northerly to the substation north of Hampton.

Paula Macabee, representing the Citizens Energy Task Force (1965 Sibley Avenue, St. Paul, MN), addressed the Committee and stated that citizens want to make sure the lines are used for transmission of wind power. She indicated that Capx2020 is calculating higher levels of electrical usage than will actually be required. She asked that the Committee support a request to reopen the record for the Certificate of Need.

Beverley Topp, Chair of the Citizens Energy Task Force (26045 Ipava Avenue W., Lakeville, MN), briefed the Committee. Speaking from prepared notes, Ms. Topp briefed on the health concerns of residents along the line and requested that the County support the request that the Public Utilities Commission reopen the record for the Certificate of Need, to include additional evidence.

Doug Wille, 26109 Northfield Boulevard, and Chair of the Hampton Town Board, addressed the Committee. He indicated that the Township did not have sufficient input into the process with only one visit from a representative in 2007. He asked the County to consider the impacts that this would have on Dakota County and Hampton Township. He asked that if this project moves forward, the County Board work for fair compensation for the land owners.

Trish Johnson, 3940 220th Street East, Hampton, MN, addressed the Committee. She briefed on the residents along the route and how each are impacted by the transmission line. She requested that the County use their representative on the Task Force to look at the potential impacts of this transmission line.

Joel Holmberger, 23411 Dakota Avenue, New Market, MN addressed the Committee. He indicated that the Scott County Board of Commissioners took action against the power line. He requested that Dakota County do the same.

Motion by Commissioner Harris, Second by Commissioner Egan and passed on a 7-0 vote to recommend that the County Board adopt the following resolution:

**Request Public Utilities Commission To Reopen Record For Certificate Of Need For Capx2020
Transmission Line Project**

BE IT RESOLVED, That the Dakota County Board of Commissioners hereby recommends that the Public Utilities Commission should consider reopening the record for the Certificate of Need based upon changes to current and future electric needs to assure the proposed lines are needed.

6.2 – Update On Dakota County Energy Policy Development

Environment and Natural Resources Director Michelle Beeman, and OMB Management Analyst Debra Miller briefed the Committee on the progress of the three goals established in November 2008: reduce, renew, restore, and the objective theme areas of motivate, model, anticipate the future, advocate, and make operational improvements. They briefed on the results of the Green House Gas inventory and responded to specific questions. They explained that Phase 1 only measured the GHG emissions within the County's facilities. Phase 2 will be County wide and will include schools, communities and residents. They will return in the summer of 2009 with the final report.

This was an information item; no action was requested.

6.3 – Update on Livable Communities Act Fund And Right Of Way Loan Acquisition Fund Transfer Legislation

Physical Development Director Lynn Thompson introduced this item. Kari Gill from the CDA responded to specific questions on how the transfer of funds could affect CDA programs.

This was an information item; no action was requested.

DIRECTOR'S REPORT

Lynn Thompson provided a brief director's report including work that was being explored between Dakota and Scott Counties regarding Scott County parks and the sharing delivery of service. Staff were directed to continue as they had been doing rather than going into a joint powers agreement. Staff were also directed to discuss these same opportunities with Washington County in parks and also transportation.

LEGISLATIVE UPDATE

The Legislative Update was provided at the Community Services Committee of the Whole meeting.

ADJOURNMENT

Commissioner Paul J. Krause adjourned the meeting at 12:07.

Respectfully submitted:

Jeanne Nash Hoffmann
Administrative Coordinator